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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

AUG 25 2010

DOCKETED BY

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In the matter of

La Bella Investments, LLC, an Arizona
limited liability company;

James Mitchell, an unmarried individual,

Respondents.

DOCKET NO. S-20745A-10-0215

DECISION NO. 71849**ORDER TO CEASE AND DESIST AND
ORDER FOR ADMINISTRATIVE PENALTY****RE: LA BELLA INVESTMENTS, LLC, AND
JAMES MITCHELL**

On May 26, 2010, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Temporary Order to Cease and Desist and Notice of Opportunity For Hearing ("TC&D") against La Bella Investments, LLC, an Arizona limited liability company ("LBI") and James Mitchell ("Mitchell") an unmarried individual.

A copy of the Notice was personally served on Respondent Mitchell, individually and on behalf of LBI, on June 9, 2010. LBI and Mitchell have failed to request an administrative hearing within 20 days after receipt of the TC&D, pursuant to A.R.S. § 44-1972 and A.A.C. Rule R14-4-307. LBI and Mitchell have failed to file an Answer within 30 days of service of the Notice, pursuant to A.A.C. Rule R14-4-305.

On July 13, 2010, the Division filed a motion to amend the caption seeking to remove Deseree T. Mitchell from the proceeding. Mitchell and D. Mitchell were divorced in the state of Idaho by decree of divorce, CV-DR-2009-06007 on December 4, 2009. The divorce of Mitchell and D. Mitchell concluded prior to the securities violations alleged in the TC&D.

On July 19, 2010, by procedural order, Administrative Law Judge Marc E. Stern granted the Division's motion to amend the caption.

I.

FINDINGS OF FACT

1. LBI was organized in Arizona on August 26, 2005. LBI's principal place of business is Scottsdale, Arizona.

2. Mitchell is a managing member of LBI.

3. Mitchell is an individual residing in Maricopa County, Arizona.

4. LBI and Mitchell may be referred to collectively as "Respondents."

5. On or about May 3, 2010, Mitchell posted an investment opportunity on the Internet through phoenix.craigslist.org available for all internet users to view without password protection. The craigslist.org advertisement was posted to the Phoenix, Arizona section of the website and it included the following:

"I am looking for investors in legalized medicinal grow sites in Colorado and California, for more information please contact me by replying here.

James"

6. An Arizona resident contacted Mitchell as a result of the advertisement to learn more about the investment opportunity.

7. On or about May 6, 2010, Mitchell, individually and/or on behalf of LBI, responded by electronic mail and transmitted a document titled "Hydro Info" that described the investment opportunity to the Arizona resident. The document contained the following statements:

a) "We are currently growing in Colorado which was legalized in 2002 [...]. Obama said when he came in office that they would not prosecute medicinal growers in states that legalized."

b) "Colorado has over 400 dispensaries and not enough products to sell; we are not opening dispensaries we are only growing for them."

c) "We will grow 96 plants per location which is in the guidelines of the State of Colorado."

1 d) "The setup cost is roughly 25,000.00 per location for 96 plants, the first crop
2 takes roughly 14 weeks and will gross between 22,500.00 and 30,000.00 depending on market
3 value at the time."

4 e) "Our goal is to prepare for the legalization in Arizona in November in which
5 we will be opening dozens of locations as growers and several dispensaries."

6 8. The investor has two options to secure a return. The Investor can either receive a
7 32.5% share of the profits from the 96 plant operation or can make a flat return and "... receive
8 their initial investment plus 10,000.00 after the first grow is completed and sold, estimated time is
9 3.5 to 4 months."

10 9. Mitchell would receive a 32.5% share of the profits and his distributor would
11 receive the remaining percentage.

12 10. An investor would not take any actions to manage the investment, other than
13 contributing money to Respondents. Mitchell stated, "as an investor your participation is just the
14 initial set up costs."

15 11. Mitchell stated that, "we handle everything from setup to selling and disbursing
16 funds through a paymaster which can be an attorney."

17 12. Mitchell stated that the amount of investment was "anywhere from 25,000 to
18 100,000 depending on the size of the crop."

19 13. Mitchell stated that the Arizona resident could meet him in Phoenix or Denver to
20 view the grow site prior to investing.

21 14. In an October 19, 2009, United States Department of Justice ("DOJ") Memorandum
22 to United States Attorneys, the DOJ stated that, "prosecution of commercial enterprises that
23 unlawfully market and sell marijuana for profit continues to be an enforcement priority of the
24 Department."

25 15. Respondents failed to state that the DOJ's official policy is to prosecute commercial
26 growers of marijuana and regulate drugs through the Controlled Substances Act ("CSA"), 21

1 U.S.C. § 801, *et. seq.*, which allows for federal prosecution of traffickers of marijuana that can
2 include medicinal growers in states that legalized medical marijuana.

3 16. May 24, 2010 is the last known date that the Craigslist.org posting was still
4 available for viewing at <http://phoenix.craigslist.org/evl/biz/1723146195.html>.

5 17. At all times relevant, neither Mitchell nor LBI were registered as a salesman or a
6 dealer.

7 II.

8 CONCLUSIONS OF LAW

9 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
10 Arizona Constitution and the Securities Act.

11 2. Respondents offered or sold securities within or from Arizona, within the meaning
12 of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

13 3. Respondents violated A.R.S. § 44-1841 by offering or selling securities that were
14 neither registered nor exempt from registration.

15 4. Respondents violated A.R.S. § 44-1842 by offering or selling securities while
16 neither registered as dealers or salesmen nor exempt from registration.

17 5. Respondents violated A.R.S. § 44-1991(A)(2) by making an untrue statement or
18 omitting to state a material fact necessary in order to make the statement made, in light of the
19 circumstances under which they were made, not misleading. The conduct includes, but is not limited
20 to, the following:

21 a) Failed to state that the DOJ's official policy is to prosecute commercial
22 growers of marijuana and regulate drugs through the Controlled Substances Act ("CSA"), 21
23 U.S.C. § 801, *et. seq.*, which allows for federal prosecution of traffickers of marijuana that can
24 include medicinal growers in states that legalized medical marijuana.

25 6. Respondents' conduct is grounds for a cease and desist order pursuant to A.R.S.
26 § 44-2032.

ORDER

IT IS ORDERED, pursuant to A.R.S. § 44-2032, that Respondents, and any of Respondents' agents, employees, successors and assigns, permanently cease and desist from violating the Securities Act.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that Respondents LBI and Mitchell, jointly and severally, shall pay an administrative penalty in the amount of \$5,000. Payment shall be made to the "State of Arizona." Any amount outstanding shall accrue interest as allowed by law.

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IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION


CHAIRMAN


COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
Executive Director of the Arizona Corporation
Commission, have hereunto set my hand and caused the
official seal of the Commission to be affixed at the
Capitol, in the City of Phoenix, this 24th day of
August, 2010.


ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Shaylin A. Bernal, ADA
Coordinator, voice phone number 602-542-3931, e-mail sabernal@azcc.gov.

(PTH)

1 SERVICE LIST FOR: ORDER TO CEASE AND DESIST
2 AND ORDER FOR ADMINISTRATIVE PENALTIES
3 RE: LA BELLA INVESTMENTS, L.L.C., AND
4 JAMES MITCHELL
5
6

7 James Mitchell
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